

**JUL 28 2006**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CARMEN DANISSA BALTAZAR-  
SOTO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 05-70416

Agency No. A95-399-371

MEMORANDUM\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted July 24, 2006\*\*

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Carmen Danissa Baltazar-Soto, a native and citizen of Peru, petitions for review of the Board of Immigration Appeals' ("BIA") order affirming without

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

opinion an immigration judge's ("IJ") decision denying her application for cancellation of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review de novo claims of constitutional violations in immigration proceedings, *Ram v. INS*, 243 F.3d 510, 516 (9th Cir. 2001), and we dismiss in part and deny in part the petition for review.

We lack jurisdiction to review Baltazar-Soto's contention that the IJ made erroneous factual findings regarding her son's educational needs and conditions in Peru because she failed to raise those issues before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004) (noting that due process challenges that are "procedural in nature" must be exhausted).

Baltazar-Soto's contention that the IJ violated equal protection by failing to consider country conditions in Peru when making his hardship determination is unavailing. *See Dillingham v. INS*, 267 F.3d 996, 1007 (9th Cir. 2001) ("In order to succeed on [an equal protection] challenge, the petitioner must establish that [her] treatment differed from that of similarly situated persons.").

Baltazar-Soto's due process challenge to the BIA's decision is foreclosed by *Falcon Carriche v. Ashcroft*, 350 F.3d 845, 848-53 (9th Cir. 2003) (holding that the Board's streamlining procedure comports with due process).

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**